combination of a railway company and a coal company. The opinion is not reported (280 Fed. —, 42 Sup. Ct. 35), but we have been furnished a certified copy of the memorandum opinion and its language is so pertinent that we quote it as expressing our view:

" 'One who takes a mortgage upon several items of property of such character that their common ownership or operation may offend against the Anti-Trust Law or the commodities clause, and such that the mortgage serves practically to aid in tying them together, must be deemed to hold his mortgage subject to the contingency that if the complete and final separation of one item of the mortgage property from the remainder becomes essential to the due enforcement of either named law, the court charged with such enforcement may take control of that item, free if from the consolidating tendency of the mortgage, and substitute therefor its judicially ascertained equivalent. Otherwise the mortgage will stand as the ready means of restoring—or at least tending to restore—those conditions which the court is endeavoring to destroy. It may well be true that a railroad and a coal company under common ownership and management are worth more as security under a mortgage than when independent and that their effective separation does impair the mortgage security, but this cannot make the law helpless.' "

"We have no desire to vary the security of the bondholders more than seems necessary to effect fully the purpose of the law, and wish to recognize their equities as against the two companies and the stockholders, as will later appear."

Impropriety of Argument Based on Failure to Cross-Examine Witnesses in Rebuttal of Defendant's Good Character.—In State *v.* Van Hoozer, 185 N. W. 588, the Supreme Court of Iowa held that in a prosecution for larceny of an automobile, where defendant introduced character witnesses, and the state cross-examined regarding other acts and crimes of defendant, argument that defendant's counsel had failed to cross-examine witnesses in rebuttal of defendant's good character was improper.

The court said in part:

"We cannot set our seal of approval upon such methods to secure the conviction of one charged with crime. Ability, skill, alertness, and zeal in a public prosecutor are commendable, and should be encouraged. It is for the good of society, for the welfare of the state, that crime shall be punished, and that the prosecution of criminals shall be vigilant and vigorous. But, under our laws, the person charged with crime has certain well-known rights which the state is bound to respect. Time and again we have declared that proof of other crimes than the one with which a defendant is charged is not admissible against him. The state cannot do, by the indirect method

resorted to in the instant case, that which it would not be permitted to do directly.

"State *v.* Kimes, 152 Iowa, 240, 132 N. W. 180, cited by counsel for appellee, does not justify the proceedings had in the instant case. In said case we said:

" 'While the rule is that in rebutting evidence of good moral character offered by defendant the state cannot introduce evidence as to particular transactions, it is certainly competent on cross-examination of a witness who has testified as to defendant's good moral character to ask whether there have not been rumors or reports in the community as to his bad character with reference to particular transactions.' "

"We do not intend to depart from the rule thus announced, but in the instant case the county attorney went much farther in cross-examination than could be allowed under this rule, and supplemented this by argument highly prejudicial and exceedingly improper. We are disposed to allow a wide latitude in the arguments of counsel, realizing the native ability of the average juror to make due allowance for oratorical embellishment and histrionic display, but we cannot tolerate abuse of the properties of argument and permit counsel to go unleashed into the fields of denunciation and accusation to secure conviction of one charged with crime."

New Mexico Statute Held Violative of Right of Free Speech.—The New Mexico Statute, chapter 140, Laws 1919, provides as follows:

"Section 1. That it shall be unlawful for any person or persons, firm or corporation, to commit or perform or to cause to permit or to be performed any act of any kind whatsoever which has for its purpose or aim the destruction of organized government, federal, state or municipal, or to do or cause to be done any act which is antagonistic to or in opposition to such organized government, or incite or attempt to incite revolution or opposition to such organized government.

"Any person violating any of the provisions of this act shall be deemed guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the state penitentiary for not less than one year nor more than ten years, or by both such fine and imprisonment, in the discretion of the court.

"Section 2. It shall be unlawful for any person or persons, firm or corporation to advocate or teach, or cause to be advocated or taught, in any manner whatsoever, the doing or performance of any of the acts prohibited by section 1 hereof."

In State *v.* Diamond, 202 Pac. 988, the Supreme Court of New Mexico held that this act was unconstitutional as violative of the right of free speech guaranteed by section 17 of article 2 of the state Constitution.

The court said in part.

"In State *v.* Tachin, 92 N. J. Law, 270, 106 Atl. 145, the New Jersey